

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>JAMES SWEENEY,</b>	:	
	:	
<b>Plaintiff</b>	:	<b>Civil No. 3:CV-13-721</b>
	:	
<b>v.</b>	:	<b>(Judge Caputo)</b>
	:	
<b>SCRANTON HOUSING, et al.,</b>	:	<b>(Magistrate Judge Carlson)</b>
	:	
<b>Defendants</b>	:	

**REPORT AND RECOMMENDATION**

**I. STATEMENT OF FACTS AND OF THE CASE**

The circumstances of the plaintiff in this action, James Sweeney, inspire sadness, sympathy and concern. Mr. Sweeney’s life is difficult and he faces many challenges. However, despite our concern for Mr. Sweeney, we are compelled to conclude that the matters which currently trouble him are not amenable to a solution in federal court through the *pro se* civil complaint he has drafted.

Mr. Sweeney lives in Lackawanna County, Pennsylvania, and currently is infested with “bug mites.” Indeed, Sweeney’s complaint alleges that he has suffered “900 trillion bug mite bites to his body.” (Doc. 1.) Sweeney’s federal civil rights complaint arises out of this bug mite infestation. In his complaint, Mr. Sweeney describes a confused narrative relating to this alleged infestation. He claims that he went to the hospital to address this problem, and while he attaches records which show

that he was treated at a local hospital, he alleges that the hospital refused to admit him because “he would contaminate the hospital.” (Id.) Sweeney then states that he spoke to housing officials, who said they would inspect the property and provided Sweeney with temporary housing. Sweeney, however, protests that these efforts and claims are somehow false and fraudulent because he has monitored the shades in his apartment, and his surveillance has led him to conclude that the apartment shades have not been moved. (Id.)

Sweeney further alleges that he contacted a legal aid attorney, who apparently attempted to assist Sweeney in returning to his apartment, an act that Sweeney views as part of an effort to cause him to “receive trillions of more bug mite bites, which Sweeney will die. James cannot take any more bites to his body. “ (Id., ¶3.) Sweeney then alleges that he has made a series of reports to law enforcement, but that they too are part of some sort of plot against him. Specifically, according to Sweeney, in November of 2012 he reported to the FBI that a biological weapon was stolen from Germany or Russia, and that one canister of this biological agent would “wipe out Penn, NY, NJ, Philly, Florida, with one small sniff, the human body would bleed inside out, death 3 seconds.” (Id.) According to Sweeney the FBI has failed to act upon this information. (Id.) Sweeney also alleges that local police are part of some sort of cabal against him stating: “The D.A.’s office, police were told by Sweeney

about murders, armed robberies, arsons, assault, to death threats bribery etc., etc., all covered up . . . , with Sweeney as eye witness thousands of times over, Sweeney gets set up [by] D.A.'s office police, people to murders hired to set Sweeney up every single time Sweeney makes a complaint.” (Id.) Sweeney further explained in this complaint what he apparently meant about being “set up”, alleging that the “D.A.’s office [is] hiring people to set Sweeney up too [sic] a child molestation case, too [sic] shut this issue up and give Sweeney a life sentence in prison. This consist[s] of treason and big time cover up. James Sweeney would be murdered inside that ap[artment] too [sic] major trillions bug mite bug bites, Sweeney’s body cannot receive no more bites, enough is enough.” (Id.)

Along with his complaint Sweeney has filed a motion for leave to proceed *in forma pauperis*. (Doc. 2.) Upon an initial screening of the complaint pursuant to 28 U.S.C. § 1915, we will grant Plaintiff’s motion to proceed *in forma pauperis*, but recommend that the district court dismiss his complaint as frivolous and because it fails to state a claim upon which relief can be granted pursuant to 28 U.S.C. § 1915(e)(2)(B)(I) and (ii).

## **II. DISCUSSION**

### **A. Legal Standards Governing Sufficiency of Civil Complaints**

This Court has an ongoing statutory obligation to conduct a preliminary review

of *pro se* complaints brought by plaintiffs given leave to proceed *in forma pauperis*. See 28 U.S.C. § 1915(e)(2)(B)(ii). Specifically, the Court must assess whether a *pro se* complaint fails to state a claim upon which relief may be granted, since Rule 12(b)(6) of the Federal Rules of Civil Procedure provides that a complaint should be dismissed for “failure to state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). In addition, when reviewing *in forma pauperis* complaints, 28 U.S.C. § 1915(e)(2)(B)(ii) enjoins us to “dismiss the complaint at any time if the court determines that . . . the action . . . fails to state a claim upon which relief may be granted.”

With respect to this benchmark standard for legal sufficiency of a complaint, the United States Court of Appeals for the Third Circuit has aptly noted the evolving standards governing pleading practice in federal court, stating that:

Standards of pleading have been in the forefront of jurisprudence in recent years. Beginning with the Supreme Court's opinion in Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007) continuing with our opinion in Phillips [v. County of Allegheny], 515 F.3d 224, 230 (3d Cir. 2008)]and culminating recently with the Supreme Court's decision in Ashcroft v. Iqbal –U.S.–, 129 S.Ct. 1937 (2009) pleading standards have seemingly shifted from simple notice pleading to a more heightened form of pleading, requiring a plaintiff to plead more than the possibility of relief to survive a motion to dismiss.

Fowler v. UPMC Shadyside, 578 F.3d 203, 209-10 (3d Cir. 2009).

In considering whether a complaint fails to state a claim upon which relief may

be granted, the Court must accept as true all allegations in the complaint and all reasonable inferences that can be drawn from the complaint are to be construed in the light most favorable to the plaintiff. Jordan v. Fox Rothschild, O'Brien & Frankel, Inc., 20 F.3d 1250, 1261 (3d Cir. 1994). However, a court “need not credit a complaint’s bald assertions or legal conclusions when deciding a motion to dismiss.” Morse v. Lower Merion Sch. Dist., 132 F.3d 902, 906 (3d Cir. 1997). Additionally a court need not “assume that a ... plaintiff can prove facts that the ... plaintiff has not alleged.” Associated Gen. Contractors of Cal. v. California State Council of Carpenters, 459 U.S. 519, 526 (1983). As the Supreme Court held in Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007), in order to state a valid cause of action a plaintiff must provide some factual grounds for relief which “requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of actions will not do.” Id. at 555. “Factual allegations must be enough to raise a right to relief above the speculative level.” Id. In keeping with the principles of Twombly, the Supreme Court has underscored that a trial court must assess whether a complaint states facts upon which relief can be granted when ruling on a motion to dismiss. In Ashcroft v. Iqbal, 556 U.S. 662 (2009), the Supreme Court held that, when considering a motion to dismiss, a court should “begin by identifying pleadings that, because they are no more than conclusions, are not entitled to the assumption of

truth.” Id. at 679. According to the Supreme Court, “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” Id. at 678. Rather, in conducting a review of the adequacy of complaint, the Supreme Court has advised trial courts that they must:

[B]egin by identifying pleadings that because they are no more than conclusions are not entitled to the assumption of truth. While legal conclusions can provide the framework of a complaint, they must be supported by factual allegations. When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief.

Id. at 679.

Thus, following Twombly and Iqbal a well-pleaded complaint must contain more than mere legal labels and conclusions. Rather, a complaint must recite factual allegations sufficient to raise the plaintiff’s claimed right to relief beyond the level of mere speculation. As the United States Court of Appeals for the Third Circuit has stated:

[A]fter Iqbal, when presented with a motion to dismiss for failure to state a claim, district courts should conduct a two-part analysis. First, the factual and legal elements of a claim should be separated. The District Court must accept all of the complaint's well-pleaded facts as true, but may disregard any legal conclusions. Second, a District Court must then determine whether the facts alleged in the complaint are sufficient to show that the plaintiff has a “plausible claim for relief.” In other words, a complaint must do more than allege the plaintiff’s entitlement to relief. A complaint has to “show” such an entitlement with its facts.

Fowler, 578 F.3d at 210-11.

In practice, consideration of the legal sufficiency of a complaint entails a three-step analysis: “First, the court must ‘tak[e] note of the elements a plaintiff must plead to state a claim.’ Iqbal, 129 S.Ct. at 1947. Second, the court should identify allegations that, ‘because they are no more than conclusions, are not entitled to the assumption of truth.’ Id. at 1950. Finally, ‘where there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement for relief.’ Id.” Santiago v. Warminster Tp., 629 F.3d 121, 130 (3d Cir. 2010).

In addition to these pleading rules, a civil complaint must comply with the requirements of Rule 8(a) of the Federal Rule of Civil Procedure which defines what a complaint should say and provides that:

(a) A pleading that states a claim for relief must contain (1) a short and plain statement of the grounds for the court’s jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support; (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and (3) a demand for the relief sought, which may include relief in the alternative or different types of relief.

Thus, a well-pleaded complaint must contain more than mere legal labels and conclusions. Rather, a *pro se* plaintiff’s complaint must recite factual allegations which are sufficient to raise the plaintiff’s claimed right to relief beyond the level of mere speculation, set forth in a “short and plain” statement of a cause of action.

**B. Mr. Sweeney’s Complaint Fails to State a Claim Upon Which Relief**

### **May Be Granted.**

In the complaint, the plaintiff makes a number of wide-ranging, seemingly unconnected, largely speculative, and frequently incredible allegations various events and incidents, linking the plaintiff's bug mite bite infestation to a seamless linear conspiracy that is far-reaching in its scope and involves murder, bribery, robbery, and the international theft of deadly biological agents.

In its current form, this complaint is flawed in several fundamental respects. First, the complaint is subject to dismissal because it presents a cause of action that "relies on 'fantastic or delusional scenarios.'" Neitzke v. Williams, 490 U.S. 319, 328, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1989)." DeGrazia v. F.B.I., 316 F. App'x 172, 173 (3d Cir. 2009). As a legal matter, we are obliged to "*sua sponte* dismiss a complaint for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1) when the allegations within the complaint 'are so attenuated and unsubstantial as to be absolutely devoid of merit, ... wholly insubstantial, ... obviously frivolous, ... plainly unsubstantial, ... or no longer open to discussion.'" Hagans v. Lavine, 415 U.S. 528, 536-37 (1974) (internal citations and quotation marks omitted). There is no question that [these] claims meet this standard, as they rely on fantastic scenarios lacking any arguable factual basis." DeGrazia v. F.B.I., 316 F. App'x 172, 173 (3d Cir. 2009).



In addition, dismissal of this complaint is warranted because the complaint fails to comply with Rule 8's basic injunction that “A pleading that states a claim for relief must contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief.” It is well-settled that: “[t]he Federal Rules of Civil Procedure require that a complaint contain ‘a short and plain statement of the claim showing that the pleader is entitled to relief,’ Fed.R.Civ.P. 8(a)(2), and that each averment be ‘concise, and direct,’ Fed.R.Civ.P. 8(e)(1).” Scibelli v. Lebanon County, 219 F.App’x 221, 222 (3d Cir. 2007). Thus, when a complaint is “illegible or incomprehensible”, id., or when a complaint “is not only of an unwieldy length, but it is also largely unintelligible”, Stephanatos v. Cohen, 236 F.App’x 785, 787 (3d Cir. 2007), an order dismissing a complaint under Rule 8 is clearly appropriate. See, e.g., Mincy v. Klem, 303 F.App’x 106 (3d Cir. 2008); Rhett v. New Jersey State Superior Court, 260 F.App’x 513 (3d Cir. 2008); Stephanatos v. Cohen, *supra*; Scibelli v. Lebanon County, *supra*; Bennett-Nelson v. La. Bd. of Regents, 431 F.3d 448, 450 n. 1 (5th Cir.2005). These principles are applicable here, and compel the dismissal of this complaint. By any standard, this complaint is not a “short and plain” statement of a cause of action containing averments that are “concise, and direct.” Therefore Rule

8 compels dismissal of the complaint in its entirety<sup>1</sup>.

In addition to these far-reaching and fundamental flaws, a number of Sweeney's more specific claims fail on their merits. For example, For example, in this complaint Sweeney seeks to sue private persons for civil rights violations, including attorneys who have tried to assist him in this housing dispute. Sweeney may not bring such claims against private parties as civil rights violations pursuant to 42 U.S.C. §1983.

It is well-established that § 1983 does not by its own force create new and independent legal rights to damages in civil rights actions. Rather, § 1983 simply serves as a vehicle for private parties to bring civil actions to vindicate violations of separate, and pre-existing, legal rights otherwise guaranteed under the Constitution and laws of the United States. Albright v. Oliver, 510 U.S. 266, 271 (1994); Graham v. Connor, 490 U.S. 386, 393-94 (1989). Therefore, any analysis of the legal sufficiency of a cause of action under § 1983 must begin with an assessment of the validity of the underlying constitutional and statutory claims advanced by the plaintiff.

In this regard, it is also well-settled that:

---

<sup>1</sup>While such dismissals are often initially made without prejudice, in this case where we find that the claims also “rely on fantastic scenarios lacking any arguable factual basis,” DeGrazia v. F.B.I., 316 F. App'x 172, 173 (3d Cir. 2009), we believe that dismissal of these allegations, with prejudice, would be appropriate.

Section 1983 provides a remedy for deprivations of federally protected rights caused by persons acting under color of state law. The two essential elements of a § 1983 action are: (1) *whether the conduct complained of was committed by a person acting under color of state law*; and (2) whether this conduct deprived a person of a federally protected right. Parratt v. Taylor, 451 U.S. 527, 535 (1981).

Boykin v. Bloomsburg University of Pennsylvania, 893 F.Supp. 409, 416 (M.D.Pa. 1995), aff'd, 91 F3d 122 (3d Cir. 1996)(emphasis added). Thus, it is essential to any civil rights claim brought under § 1983 that the plaintiff allege and prove that the defendant was acting under color of law when that defendant allegedly violated the Plaintiff's rights. To the extent that a complaint seeks to hold private parties liable for alleged civil rights violations, it fails to state a valid cause of action under 42 U.S.C. § 1983 since the statute typically requires a showing that the defendants are state actors. Am. Mfrs. Mut. Ins. Co. v. Sullivan, 526 U.S. 40, 49-50 (1999).

This principle applies with particular force to civil rights plaintiffs who may invite the courts to consider lawsuits against their own counsel, like Sweeney's claims against legal aid counsel who tried to help him in with his housing concerns. With respect to this state action requirement, it is well-settled that the conduct of an attorney, representing a client in a case, does not by itself rise to the level of state action entitling a state prisoner to bring a federal civil rights actions against his own prior counsel. See, e.g., West v. Atkins, 487 U.S. 42, 50 (1988); Polk County v. Dodson, 454 U.S. 312 (1981); Pete v. Metcalfe, 8 F.3d 214 (5th Cir. 1993). As we

have previously noted: “Private attorneys and public defenders are generally not considered state actors for § 1983 purposes when acting in their capacities as attorneys. See Angelico, 184 F.3d at 277 (citing Polk County v. Dobson, 454 U.S. 312, 102 S.Ct. 445, 70 L.Ed.2d 509 (1981)) (‘[a]ttorneys performing their traditional functions will not be considered state actors solely on the basis of their position as officers of the court.’).” Catanzaro v. Collins, CIV. A. 09-922, 2010 WL 1754765 (M.D. Pa. Apr. 27, 2010) aff’d, 447 F. App’x 397 (3d Cir. 2011). Therefore, in the absence of some further well-pleaded facts, Sweeney may not convert his dissatisfaction with the performance of his prior counsel into a federal civil rights lawsuit.

In addition, to the extent that Sweeney seeks to hold governmental agencies like the police liable for alleged civil rights violations, he must meet an exacting burden of pleading and proof. It is well-settled that local governmental entities may not be held liable under § 1983 for the acts of others under a theory of *respondeat superior* or vicarious liability. Ashcroft v. Iqbal, 556 U.S. 662 (2009); see also Colburn v. Upper Darby Twp., 946 F.2d 1017, 1027 (3d Cir. 1991). Instead, such an agency may only be held liable “when execution of a government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is

responsible under § 1983.” Monell v. Dep’t of Soc. Servs., 436 U.S. 658, 694 (1978).

Thus, to sustain a claim like the claim that initially advanced against these institutional defendants, a plaintiff must “identify a . . . ‘policy’ or ‘custom’ that caused the plaintiff’s injury.” Bd. of County Comm’rs of Bryan County v. Brown, 520 U.S. 397, 403 (1997). This custom must be “so widespread as to have the force of law.” Id. at 404; see also Beck v. City of Pittsburgh, 89 F.3d 966, 971 (3d Cir. 1996) (a policy is an official proclamation or edict of a municipality, while a custom is a practice that is “so permanent and well settled as to virtually constitute law”) (quoting Andrews v. City of Phila., 895 F.2d 1469, 1480 (3d Cir. 1990) (citations omitted)).

The plaintiff must further “allege that a ‘policy or custom’ of [the defendants] was the ‘moving force’ behind the [constitutional] violation.” Grayson v. Mayview State Hosp., 293 F.3d 103, 107 (3d Cir. 2002) (citing Brown, 520 U.S. at 404). A municipality can be held liable on the basis of failure to train when “that failure amounts to ‘deliberate indifference . . . [of the constitutional] rights of persons. . . .’” Woloszyn v. County of Lawrence, 396 F.3d 314, 324 (3d Cir. 2005) (citations omitted). There must also be a causal nexus, in that the “‘identified deficiency in [the] training program must be closely related to the ultimate [constitutional] injury.’” Id. at 325 (citations omitted). Therefore, analysis of a claim under Monell requires separate analysis of two distinct issues: “(1) whether plaintiff’s harm was caused by

a constitutional violation, and (2) if so whether the [municipality] is responsible for that violation.” Collins v. City of Harker Heights, Texas, 503 U.S. 115, 120 (1992).

An institutional defendant may also be liable for constitutional violations resulting from inadequate training or supervision of its employees if the failure to train amounts to a custom of the municipality. However, failure-to-train claims also must meet precise and demanding legal criteria. Such a failure must “amount[] to deliberate indifference to the constitutional rights of persons with whom the police come in contact.” Colburn, 946 F.2d at 1028 (citing City of Canton v. Harris, 489 U.S. 378, 388 (1989)). Proving agency liability on a theory of deliberate indifference is an especially difficult showing for a plaintiff to satisfy where the plaintiff has alleged that insufficient training or supervision has caused constitutional violations. Reitz v. County of Bucks, 125 F.3d 139, 145 (3d Cir. 1997). Such a showing requires that “(1) . . . lawmakers know that employees will confront a similar situation; (2) the situation involves a difficult choice or a history of employees mishandling; and (3) the wrong choice by an employee will frequently cause deprivation of constitutional rights.” Carter v. City of Phila., 181 F.3d 339, 357 (3d Cir. 1999). Moreover, the plaintiff proceeding on such a theory must establish that the agency’s “deliberate conduct . . . was the ‘moving force’ behind the injury alleged.” Reitz, 125 F.3d at 145 (quoting Brown, 520 U.S. at 404). Therefore, the need for training, supervision, or other

corrective action to avoid imminent deprivations of a constitutional right “must be so apparent that any reasonable policymaker or supervisor would have taken appropriate preventive measures.” Horton v. City of Harrisburg, No. 06-2338, 2009 U.S. Dist. LEXIS 63428, \*13 (M.D. Pa. July 23, 2009) (quoting Strauss v. Walsh, No. Civ. A. 01-3625, 2002 U.S. Dist. LEXIS 24717, 2002 WL 32341791, at \*3 (E.D. Pa. Dec. 17, 2002)). Additionally, in order to recover for municipal liability on a failure-to-train theory, the alleged failure must be “closely related to the ultimate (constitutional) injury.” Woloszyn, 396 F.3d at 325.

The Supreme Court has recently reaffirmed the guiding principles which define institutional civil rights liability based upon a failure to train or oversee law enforcement officers. In Connick v. Thompson, – U.S.– , 131 S.Ct. 1350, 1359 (2011), the Court described the parameters of agency liability in the following terms:

A municipality or other local government may be liable . . .if the governmental body itself “subjects” a person to a deprivation of rights or “causes” a person “to be subjected” to such deprivation. See Monell v. New York City Dept. of Social Servs., 436 U.S. 658, 692 (1978). But, under § 1983, local governments are responsible only for “their *own* illegal acts.” Pembaur v. Cincinnati, 475 U.S. 469, 479(1986) . . . . They are not vicariously liable under § 1983 for their employees' actions. . . . Plaintiffs who seek to impose liability on local governments under § 1983 must prove that “action pursuant to official municipal policy” caused their injury. Monell, 436 U.S., at 691. Official municipal policy includes the decisions of a government's lawmakers, the acts of its policymaking officials, and practices so persistent and widespread as to practically have the force of law. . . . . These are “action[s] for which the

municipality is actually responsible.” Pembaur, supra, at 479–480. In limited circumstances, a local government's decision not to train certain employees about their legal duty to avoid violating citizens' rights may rise to the level of an official government policy for purposes of § 1983. A municipality's culpability for a deprivation of rights is at its most tenuous where a claim turns on a failure to train. See Oklahoma City v. Tuttle, 471 U.S. 808, 822–823 (1985) (plurality opinion) (“[A] ‘policy’ of ‘inadequate training’ ” is “far more nebulous, and a good deal further removed from the constitutional violation, than was the policy in Monell”). To satisfy the statute, a municipality's failure to train its employees in a relevant respect must amount to “deliberate indifference to the rights of persons with whom the [untrained employees] come into contact.” . . . Only then “can such a shortcoming be properly thought of as a city ‘policy or custom’ that is actionable under § 1983. . . . “ ‘[D]eliberate indifference’ is a stringent standard of fault, requiring proof that a municipal actor disregarded a known or obvious consequence of his action.” . . . Thus, when city policymakers are on actual or constructive notice that a particular omission in their training program causes city employees to violate citizens' constitutional rights, the city may be deemed deliberately indifferent if the policymakers choose to retain that program.

Id. (some citations deleted).

Here, in its present form, this complaint simply does not make sufficient allegations which would permit a finding of institutional liability against institutional defendant, including the Scranton Police Department.<sup>2</sup> With respect to these municipal

---

<sup>2</sup>In addition, we note that the police department may not be a proper institutional defendant in this action since police departments serve only as an administrative arm of a municipality, and it is a municipality through which any liability must flow to the police department. A police department is not a “person” for purposes of §1983 and is not a proper defendant in a §1983 action. Golya v. Golya, 2007 U.S. Dist. LEXIS 58093, \*29-30 (M.D. Pa. 2007) (explaining that courts within the Third Circuit have concluded that a police department is merely a



liability claims, in order to state a valid cause of action a plaintiff must provide some factual grounds for relief which “requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of actions will not do.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007) Id. at 555. “Factual allegations must be enough to raise a right to relief above the speculative level.” Id. Fairly construed, these pleadings do not even present a formulaic recitation of the elements of a cause of action, a form of pleading that will not do. Therefore, Sweeney’s claims against these institutional defendants fail as a matter of law.

Moreover, the complaint also fails as to the state prosecutors named in that complaint. While the nature of his claim against these prosecutors is difficult to discern, it appears that the plaintiff is suing the prosecutors for the very act of prosecuting him. This he may not do. It is well-settled that a criminal defendant may not sue prosecutors for their act of filing charges against him since such conduct is cloaked in immunity from civil liability. The immunity conferred upon prosecutors for the quasi-judicial act of filing and bringing criminal charges is broad and sweeping:

[T]he Supreme Court [has] held that state prosecutors are absolutely

---

sub-unit of the local government and is not amenable to suit under §1983); Wivell v. Liberty Township Police Dept., 2007 U.S. Dist. LEXIS 54306, \*5-6 (M.D. Pa. 2007) (explaining that police department not subject to suit in a §1983 action).

immune from liability under § 1983 for actions performed in a quasi-judicial role. This immunity extends to acts that are “intimately associated with the judicial phase of the criminal process,” such as “initiating a prosecution and ... presenting the State's case.” Court has noted numerous public policy considerations underlying its extension of absolute immunity to prosecutors: [S]uits against prosecutors for initiating and conducting prosecutions “could be expected with some frequency, for a defendant often will transform his resentment at being prosecuted into the ascription of improper and malicious actions to the State's advocate”; lawsuits would divert prosecutors' attention and energy away from their important duty of enforcing the criminal law; prosecutors would have more difficulty than other officials in meeting the standards for qualified immunity; and potential liability “would prevent the vigorous and fearless performance of the prosecutor's duty that is essential to the proper functioning of the criminal justice system.” ... [T]here are other checks on prosecutorial misconduct, including the criminal law and professional discipline.

Yarris v. County of Delaware, 465 F.3d 129, 135 (3d Cir. 2006)(citations omitted).

Here, we find that the complaint apparently seeks to hold prosecutors personally liable for their act of prosecuting him. Since these officials are immune from personal, individual liability for their actions in bringing this criminal case against an alleged escapee, Sweeney's claims against these defendants should also be dismissed.

Thus, by any measure, Mr. Sweeney's complaint fails to state a cognizable claim and fails even to allege facts that plausibly could give rise to a claim for relief. Moreover, cursory review of the complaint reveals not only that it lacks a procedural or substantive basis, but also that it is predicated on implausible, baseless allegations that simply provide no support for any conceivable federal claim. Thus, simply put,

the complaint “rel[ies] on fantastic scenarios lacking any arguable factual basis.” DeGrazia v. F.B.I., 316 F. App'x 172, 173 (3d Cir. 2009).

We recognize that Mr. Sweeney has had a number of serious challenges in his life, and appears to have been much aggrieved by the scattered incidents in his life that allegedly occurred in a variety of settings. Nevertheless, the nature of his grievances against the defendants named in this complaint are not adequately pleaded, and the factual narrative that comprises this complaint makes clear that this civil action is simply meritless. Because the shortcomings of the complaint are manifold and obvious, we recommend that the district court dismiss this action as frivolous and for failure to state a claim upon which relief can be granted.

We recognize that in civil rights cases *pro se* plaintiffs often should be afforded an opportunity to amend a complaint before the complaint is dismissed in its entirety, see Fletcher-Hardee Corp. v. Pote Concrete Contractors, 482 F.3d 247, 253 (3d Cir. 2007), unless granting further leave to amend would be futile or result in undue delay. Alston v. Parker, 363 F.3d 229, 235 (3d Cir. 2004). In this case, the plaintiff has not articulated any civil rights cause of action, and in our estimation the complaint itself demonstrates that Plaintiff’s lawsuit is frivolous and provides no basis upon which relief could be granted in federal court. Accordingly, we will recommend that the action be dismissed with prejudice.

### **III. RECOMMENDATION**

Accordingly, Plaintiff's motion to proceed *in forma pauperis* (Doc. 2) is GRANTED, but IT IS HEREBY RECOMMENDED that the Court dismiss this action pursuant to 28 U.S.C. § 1915(e)(2)(B)(I) and (ii).

The plaintiff is further placed on notice that pursuant to Local Rule 72.3:

Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in 28 U.S.C. § 636 (b)(1)(B) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition within fourteen (14) days after being served with a copy thereof. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

Submitted this 25th day of March, 2013.

**S/Martin C. Carlson**

Martin C. Carlson

United States Magistrate Judge